



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 6025-99

20 October 1999

MAJ [REDACTED] USMC

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 21 September 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6025-99

IN REPLY REFER TO:
1610

MMER/PERB

SEP 21 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF MAJOR
[REDACTED] USMC

Ref: (a) Major [REDACTED] DD Form 149 of 19 Aug 99
(b) MCO P1610.7C w/Ch 1-4

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 14 September 1999 to consider Major [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 880707 to 881020 (TD) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner presents information that the Reporting Senior (Lieutenant Colonel [REDACTED]) was convicted at a General Court-Martial in April 1990 for violating Article 134 of the Uniform Code of Military Justice. The petitioner therefore believes that Lieutenant Colonel [REDACTED] "critical error in judgment" discredits his previous responsibilities as a Reporting Senior and places into question the contents of his previously submitted fitness reports. To support his appeal, the petitioner furnishes court-martial documentation on Lieutenant Colonel [REDACTED]

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. There is nothing whatsoever to substantiate that the challenged fitness report is anything other than an accurate, objective, and truthful evaluation of the petitioner's demonstrated performance during the stated period. In this regard, the Board concludes that the petitioner has failed to substantiate or document precisely how or why he may have rated more than what has been recorded.

b. Since the petitioner's documentation is missing key information (i.e., the Reporting Senior's marital status, Sergeant [REDACTED] marital status, Sergeant [REDACTED]'s gender, etc.), it is difficult to determine if Lieutenant Colonel [REDACTED] was guilty of grossly poor judgment or was committing moral depravity. Notwithstanding, and regardless of the situation that

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led to Lieutenant Colonel [REDACTED] General Court-Martial, the petitioner fails to establish a "cause and effect" relationship with the Reporting Senior's personal situation and his professional ability to function and assess the professional efforts of his subordinates. Additionally, the Board observes that the General Court-Martial occurred approximately a year and a half after the end of the reporting period.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Major [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]
[REDACTED] OK.
Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps